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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,006	03/26/2004	Glenn Seale		7755
7590 08/10/2007 GREGORY M. FRIEDLANDER GREGORY M. FRIEDLANDER & ASSOCIATES, P.C. 11 SOUTH FLORIDA STREET MOBILE, AL 36606-1934			EXAMINER	
			CHIN, PAUL T	
			ART UNIT	PAPER NUMBER
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			08/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/810,006	SEALE, GLENN
	Examiner PAUL T. CHIN	Art Unit 3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 May 2007.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 11-14 and 21-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 11-14 and 21-29 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 11 December 2006 and 01 May 2007 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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#### **DETAILED ACTION**

1. Applicant's arguments filed May 1, 2007, have been fully considered but they are not persuasive. **THIS ACTION IS MADE FINAL.**

##### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 60" (handle as described on page 8, line 12, of specification). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "second strap means" (claim 12) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the

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drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Claim Objections***

4. Claim 11 is objected to because of the following informalities: it appears in claim 11, line 4, that the word "comprisinged" after "the second end" should be changed to -- comprised --. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:
- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claims 11-14 and 21-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites, "comprised of a support means comprising at least one rack arm" in line 4, and it is unclear as to whether applicant is claiming "a support means" in the preamble or "in the body of the claim". Moreover, claim 13 positively recites, "the bags have a top and a bottom and a length from the bag top and bottom" and claim 21 also positively recites "the bags comprises a loaded width", and it is not clearly understood as to whether applicant is claiming a subcombination of the device and the bags or is claiming as the intended use of the device. Further, there is no antecedent basis for "the strap means" in claim 24 because applicant positively recites "the strap". Note that claim 1

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recites "a strap means" only in the preamble of the claim. The claimed language of the amended claim 26 is also vague and indefinite because the recited clause "the invention is operated by a user standing comprises a user location adjacent the support means" as to how "the invention comprises a user location". Claims 14 and 28 recite "a package holding means" and it is unclear as to whether the recited meaning of a package holding means refers to "the handles of the bag" or "the carried bags" or other things. New claim 29 recites "a second user location adjacent to the support arm" and the recitation is not clearly understood as to whether applicant is claiming "a location" or "the second user's position".

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 11,13,14,26, and 29, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by the prior art of Figure 20.

It is pointed out that claim 11 is a subcombination claim reciting a support means having a rack arm for supporting bags having handles with a strap means with a first end and a second end and a strap length". Figure 20 of the instant application, labeled as prior art, shows a device for closing bags with handles comprising a support means having at least one rack arm (49) with a first end and a second end having a substantially arm length,

Re claim 13, the prior art figure 20 teaches that the rack arm is above the bag length.

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Re claim 14, the prior art figure 20, as best understood, also teaches a supporting base (48) and a top portion of the rack arm, which can be considered as a package holding means, for holding and dispensing the handles.

Re claims 26 and 29, the device of the prior art of Figure 20 is capable of being operated be at least two users to load or unload the bags from the rack.

9. Claims 11-14, 21-23, 26, and 29, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Wallick et al. (4,830,385) (see PTO-892).

It is pointed out that claim 11 is a subcombination claim reciting a support means having a rack arm for supporting bags having handles with a strap means with a first end and a second end and a strap length". Wallick et al. (4,830,385) discloses a device for closing bags with handles comprising a support means having at least one rack arm (17) (Fig. 1) with a first end and a second end having a substantially arm length, and a second arm (24) with a first end and a second end having a substantially arm length. Note that the claimed languages of "a first strap or rope" and "a second strap or rope" are in the preamble and also functional limitations. Wallick et al. (4,830,385) is capable of providing a first strap and a second strap for holding the handles of the bags.

Re claim 12, Wallick et al. (4,830,385) also teaches a second rack arm (24) and is capable of supporting a second strap or rope to tie the bag handles..

Re claims 13 and 14, figure 1 shows an adjustable base (16,18) above the bag length and a package holding means (21,21).

Re claims 21 and 22, figure 1 shows a mounting means (18,20) and figure 2 shows that the mounting means (18,20) is substantially rotational between a storage position and a carrying position.

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Re claim 23, figures 1 and 2 shows a plate (16), which can be considered as a bag support plate, for supporting the bag attached below the rack arm as shown in figure 1.

Re claims 26 and 29, a first user is capable of standing and holding the bags on one rack arm (17) and a second user is capable of standing and holding the bags on the other side of the second rack (24).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 24,25,27, and 28, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallick et al. (4,830,385) (see PTO-892) in view of Wills (US Publication 2002/0116796) (see PTO-892).

Wallick et al. (4,830,385), as presented above, does not show a strap to hold the bag handles. However, Wills (US Publication 2002/0116796) teaches a strap (6,8) to hold the bag handles and an elongated strap (see Fig. 5). Accordingly, it would have been obvious to those skilled in the art to provide a strap along the rack arm of Wallick et al. (4,830,385) as taught by Wills to hold the bag handles together and to prevent the bags from separating. With regard to the length of the strap, it would have been obvious to those skilled in the art to optimize the desired length of the strap to hold the bag handles and hang on the arms.

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***Response to Arguments***

12. Applicant's arguments filed May 1, 2007, have been fully considered but they are not persuasive.

**Claim Rejections - 35 USC § 112**

Applicant fails to particularly point out and distinctly claim the subject matter of the application and also fails to amend the claim rejection under 35 U.S.C. 112. Therefore, claims 11-14 and 21-29 remain rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Obviousness**

Applicant argues that "the prior art shows holders and bag holders but no device which holds a plurality of bags over a removable strap capable of sealing the bags shows the absence of obviousness" (2<sup>nd</sup> paragraph of page 1).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Wallick et al. device '385 teaches a device for holding or supporting shopping bags or grocery bags which comprises a support first rack arm and a second rack arm (24). Wills '796 teaches an elongated strap (see Fig. 5) to organize and retain several plastic bags. Those skilled in the art would take the elongated Wills's strap and provide on the rack arm (17,24) of

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Wallick et al. device so that a user could group the plastic bags together and transport the bags to other locations.

*Conclusion*

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Garrett (4,919,368) shows a support having a base 10 and two rack arms 11,12 for holding items.

Bissett (6,386,491) shows a supporting device having a base and at least two extending rack arms to provide elongated straps.

Crouch (6,447,037) shows an elongated strap to hold several bags.

Dossett (6,401,304) shows a support bar, an elongated strap to group a plurality of items together.

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

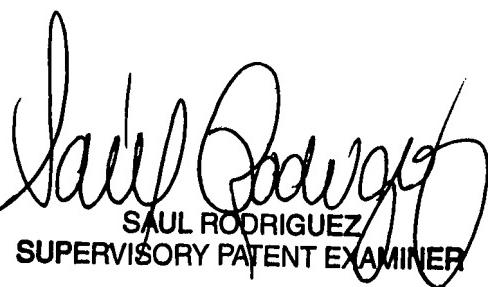
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL T. CHIN whose telephone number is (571) 272-6922. The examiner can normally be reached on MON-THURS (7:30 -6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571) 272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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SAUL RODRIGUEZ  
SUPERVISORY PATENT EXAMINER